

Complaint

60 F.T.C.

It is ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

IN THE MATTER OF

MARQUETTE CORPORATION

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket C-112. Complaint, Apr. 16, 1962—Decision, Apr. 16, 1962

Consent order requiring a Minneapolis, Minn., manufacturer of home food freezers to cease making unwarranted claims, purportedly based on statistics of the Department of Agriculture and the Bureau of Labor Statistics, that a family could save money on food purchases by using a freezer; and representing falsely that the compressors in their freezers were backed by an unconditional lifetime replacement guarantee, and, through use of the name "Blue Ribbon Freezer-Food Institute", that it was a non-profit organization.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Marquette Corporation, a corporation, hereinafter referred to as respondent, has violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Marquette Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 307 E. Hennepin Avenue, Minneapolis 14, Minn.

PAR. 2. Respondent is now, and for some time last past has been, engaged in the manufacture, advertising, offering for sale, sale and distribution of home food freezers and various other products to distributors and retailers for resale to the public.

PAR. 3. In the course and conduct of its business, respondent now causes, and for some time last past has caused, its freezers, when sold, to be shipped from its factories or plants in the State of Minnesota to purchasers thereof located in various other states of the United States, and maintains, and at all times mentioned herein has main-

tained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Respondent is now, and at all times mentioned herein has been, in substantial competition in commerce with other corporations, firms, and individuals engaged in the sale and distribution of freezers.

PAR. 5. In the course and conduct of its business respondent, by the use of advertisements in magazines of national circulation, trade publications, and by use of various point-of-sale promotional materials, which it leases to distributors and retailers of its freezers and to sellers of freezer-food plans, has made certain representations with reference to its freezers of which the following are typical:

Here's what YOU CAN SAVE EACH MONTH ON FOOD PURCHASES . . . (chart showing savings per month for families of from 1 to 7 persons).

*Based on average per capita consumption of foods suitable for freezing purchased in quantity during lower priced "in season" months. "Per capita food consumption"—Dept. of Agriculture. "Seasonal price fluctuation"—Bureau of Labor Statistics.

A family of 4 can save \$310.32 a year!

Extended Compressor Replacement Contract For Operating LIFETIME OF Appliances.

Lifetime Compressor Contract.

Blue Ribbon Freezer—Food Institute.

PAR. 6. Respondent, by means of the aforesaid advertisements and promotional materials, has represented, directly or by implication:

(1) That a savings chart included in point-of-sale promotional materials was compiled or prepared by the Department of Agriculture and/or the Bureau of Labor Statistics, or from information supplied by them.

(2) That information compiled or supplied by the Department of Agriculture and/or the Bureau of Labor Statistics establishes that a family of four can save \$310.32 a year on food purchases by use of a freezer.

(3) That the compressors in respondent's freezers are backed by an unconditional replacement contract for the lifetime of the appliances and that when the operation of such compressors becomes impaired they will be replaced without charge.

(4) Through use of the name Blue Ribbon Freezer-Food Institute that it is an institute, or a non-profit organization.

PAR. 7. Said representations are false, misleading and deceptive. In truth and in fact:

(1) The savings chart included in point-of-sale promotional material was not compiled or prepared by the Department of Agriculture

and/or the Bureau of Labor Statistics, or from information supplied by them.

(2) Information compiled or supplied by the Department of Agriculture and/or the Bureau of Labor Statistics does not establish that a family of four can save \$310.32 a year on food purchases by use of a freezer.

(3) The lifetime compressor replacement contract is not unconditional and compressors whose operation becomes impaired will not be replaced without charge at all times during the lifetime of the appliance.

(4) Respondent is not an organization for the promotion of learning, philosophy, the arts, science, research, or the like. It is a corporation engaged in business for a profit and, therefore, is not an institute or a non-profit organization.

PAR. 8. By the aforesaid practices respondent has placed, and is placing in the hands of distributors and retailers means and instrumentalities by and through which they may mislead the purchasing public into the belief that the aforesaid representations are true.

PAR. 9. The use by respondent of the aforesaid false, misleading and deceptive representations and practices has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said representations were, and are true, and into the purchase of substantial quantities of respondent's product by reason of said erroneous and mistaken belief.

PAR. 10. The aforesaid acts and practices of respondent, as herein alleged, were and are all to the prejudice and injury of the public and of respondent's competitors and constituted and now constitute unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce in violation of Section 5(a)(1) of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondent named in the caption hereof with violation of the Federal Trade Commission Act, and the respondent having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; and

The respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent of all the jurisdictional facts set forth in the complaint

to issue herein, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as set forth in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having considered the agreement, hereby accepts same, issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Marquette Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal place of business located at 307 E. Hennepin Avenue, in the city of Minneapolis, State of Minnesota.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

It is ordered, That respondent Marquette Corporation, a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device in connection with the offering for sale, sale or distribution of freezers in commerce, as "commerce" is defined in the Federal Trade Commission Act, forthwith cease and desist from:

1. Representing directly or by implication that any data or promotional material was compiled or prepared by, or prepared from information supplied by, the United States Department of Agriculture, Bureau of Labor Statistics or any other department or agency of the United States Government; or otherwise misrepresenting the source of any such data or material.

2. Representing directly or by implication that information compiled or supplied by the United States Department of Agriculture, Bureau of Labor Statistics or any other department or agency of the United States Government establishes that a family of four can save \$310.32, or that any family can save any specific amount, a year on food purchases by the use of a freezer; or otherwise representing that any savings, or savings in any amount, have been established in any manner or are supported by any data unless such representations have been authoritatively established or are supported by such data.

3. Using the word "institute" to designate, describe or refer to respondent's business or representing that it is any type of non-profit organization.

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4. Placing in the hands of others the means and instrumentalities whereby they may mislead or deceive the public in the manner or as to the things herein prohibited and from continuing to permit others to use any advertising or promotional material, owned by it or over which it has control, which may mislead or deceive the public in the manner or as to the things herein prohibited.

It is further ordered, That respondent Marquette Corporation, a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device in connection with the offering for sale, sale or distribution of freezers or any other products in commerce as "commerce" is defined in the Federal Trade Commission Act, forthwith cease and desist from:

Representing directly or by implication that any such products or any parts thereof are guaranteed in any manner unless the nature and extent of the guarantee and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed in immediate conjunction with any such representation.

It is further ordered, That the respondent herein shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.
